



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

REF:WL:EK

P.O. BOX 621
HONOLULU, HAWAII 96809

NOV 17 1993

KEITH W. AHUE, Chairperson
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES

JOHN P. KEPPELER, II
DONA L. HANA'IKE

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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

Ms. Virginia Goldstein
Planning Director
County of Hawaii
25 Aupuni Street, Room 109
Hilo, Hawaii 96720-4252

Dear Ms. Goldstein:

Geothermal Asset Fund Rules

This is in response to your September 9, 1993 draft Geothermal Asset Fund Rules. Our comments are as follows:

1. The legal authority of the rules needs to be included in the body.
2. We suggest limiting the authority of the panel to processing claims with their supporting documents for Planning Commission action. This would remove any questions of impropriety by the panel. Also, it would eliminate any conflict between the panel and/or the claimant and Planning Commission. The Planning Commission should be the only body to have legal authority regarding the settlement of claims. This would simplify the procedures for the Geothermal Asset Funds Rules.

We recognize and appreciate the difficulty of your efforts to draft a set of rules which would satisfy everyone. Accordingly, if we can be of any assistance to you, please feel free to have your staff contact Mr. Manabu Tagomori of the Division of Water and Land at 587-0230.

Very truly yours,

Handwritten signature of Keith W. Ahue in black ink.
KEITH W. AHUE



County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615RECEIVED
93 OCT 28 P 2: 57
DIV. OF WATER &
LAND DEVELOPMENT

October 25, 1993

Mr. Keith Ahue, Director
Department of Land and
Natural Resources
P. O. Box 621
Honolulu, HI 96809

Dear Mr. Ahue:

Geothermal Asset Fund Rules

Enclosed is a copy of the draft Geothermal Asset Fund Rules that will be considered by the Planning Commission of the County of Hawaii at 6:00 p.m., Thursday, November 18, 1993 at Keaau Elementary and Intermediate School Cafetorium, Keaau, Hawaii.

If your Department has comments, please submit them in writing at least one week in advance of the above date.

Thank you for your continued interest in the Geothermal Asset Fund Rules.

Sincerely,

A handwritten signature in cursive script, appearing to read "Virginia Goldstein".

VIRGINIA GOLDSTEIN
Planning DirectorJEM:mjs
1317D (2)
Enclosure

PLANNING COMMISSION
COUNTY OF HAWAII
GEOHERMAL ASSET FUND RULES

DRAFT

9/9/93

1. **PURPOSE** The purpose of these rules is to allow the Planning Commission to authorize payment of money from the Geothermal Asset Fund (the Fund) to claimants whom the Planning Commission finds have been adversely impacted by activities authorized by Geothermal Resource Permit No. 2, issued by the County of Hawaii and to authorize payments for geothermal impact mitigation projects within the district of Puna. The Geothermal Asset Fund was created pursuant to Condition 51 of Geothermal Resource Permit (GRP) No. 2, issued to Puna Geothermal Venture on October 3, 1989.

Legal Authority of Rules needs to be defined → 2. **GENERAL PROCEDURE** All claims for release of monies from the Geothermal Asset Fund, will be heard by the Geothermal Asset Fund Panel (the Panel), which will then present its findings and recommendations to the Planning Commission. The Planning Commission will review these findings and then render a decision.

3. **DEFINITIONS** "HEARING" means the taking of evidence concerning a claim for the purpose of voting on a recommendation to the planning commission as to the granting or denial of the claim.

"MEETING" means the convening of the Geothermal Asset Fund Panel for which a quorum is required to make a decision on a claims hearing or on any other matter over which the Geothermal Asset Fund Panel has supervision, control, jurisdiction or advisory powers.

"QUORUM" means three Panel members, or in the absence of Panel members, Panel members and alternates totaling three.

"VOTE OF THE MAJORITY" means three votes among the five on the Panel.

4. **GEOHERMAL ASSET FUND PANEL MEMBERSHIP**

(a) The Panel shall consist of five (5) members. These five (5) members plus two alternates shall be appointed by the Mayor and shall be confirmed by the County

Council. Community or neighborhood organizations of District 4, Precinct 4 may submit lists of nominees to the Mayor for his consideration. The alternates shall be designated First and Second Alternate. All members and alternates must be residents of the Island of Hawaii and registered voters. No less than two panel members plus one alternate shall be from the Puna District.

(b) The members and alternates will serve terms of four years from the date of appointment.

(c) Upon appointment, and at the first meeting, the voting members of the Panel shall elect one of their members as chair and another as vice-chair. [The chair and vice-chair may be removed and replaced at any time by a majority vote of the five Panel members.]

(d) If any Panel member shall be unable to attend a hearing of the Panel, the first alternate or if he(she) is unavailable, the second alternate shall serve in that member's place. [If any Panel member shall file a claim for compensation from the Fund,] then the first alternate or if he(she) is unavailable, the second alternate shall serve in that member's place at the hearing at which the member's claim is considered. If for any reason a Panel member vacates his (her) seat prior to the completion of the member's term, the first alternate or if he(she) is unavailable, the second alternate shall serve in that seat until a new member is appointed.

5. **ELIGIBILITY OF CLAIMS** Claims for compensation from the Geothermal Asset Fund may be filed by any person or organization who is adversely impacted by the activity of geothermal development authorized under Geothermal Resource Permit No. 2, granted by the County of Hawaii.

(a) Adverse impacts shall include physical injury, medical and health conditions, business or economic loss, nuisance, or any other claim of adverse impact which is able to be substantiated by evidence.

(b) Adverse impact claims must be supported by documents such as doctor's affidavits, photographs, bills, invoices, other expert testimony, etc.

(c) Claims for community wide mitigation programs shall address the alleviation or attenuation of the direct detrimental effects of geothermal operations carried out pursuant to GRP No. 2.

(d) An action on the merits of a claim by the Panel to recommend approval or denial of a claim and subsequent Planning Commission action to confirm or reject the Panel's recommendation shall, after exhaustion of the Planning Commission appeal process, become final and shall bar any subsequent claim before the Panel by the same claimant based upon the same facts.

Process must follow Ch. 91, HRS

County 2
Panel can be "base"
"2000"
feelings may occur
of panel members
claim rejected

Per Ch. 91, HRS -
next step is
second appeal

6. FILING OF CLAIMS

(a) All claims for compensation for adverse impact pursuant to this rule shall be filed with the Hawaii County Planning Department, 25 Aupuni Street, Hilo, Hawaii 96720.

(b) Each claim shall include the following information:

- (1) Name of claimant(s). When the claimant is an organization, the claimant shall submit a list of officers, a membership list, and a copy of the organization's by-laws.
- (2) Address of claimant(s).
- (3) Tax Map Key of claimant(s)
- (4) Date of filing of claim.
- (5) Description of the nature of the claim, including the way in which the claimant(s) has been adversely impacted and the compensation sought.
- (6) Documents supporting the claim, showing evidence of adverse impact.
- (7) Eight (8) copies of the claim and all supporting documents.
- (8) A filing fee of \$50.00 (non-refundable)

(c) Each claim shall be accompanied by evidence of the aforementioned adverse impact and the request for compensation. Such evidence may include written reports and testimony, photographs, bills, invoices, and other documentary evidence. The claim application and submitted evidence shall be a matter of public record and copies shall be distributed to the Panel members who will hear the claim.

7. HEARINGS

(a) **Scheduling of Hearing**, Whenever an application is made for compensation, the Panel shall conduct a hearing within 60 days of the receipt of the application and all supporting documents. The hearings shall be held in Pahoa. The Panel shall give notice of the hearing to the claimant(s). Such notice shall be given not less than ten days prior to the date set for hearing on the application and shall state the time and place of the hearing. Such hearing may, by announcement at such time and place, be continued from day to day or adjourn to a later date without notice. All hearings shall be open to the public.

Any three (3) voting members shall constitute a quorum. Any member of the Panel may administer oaths or affirmations to witnesses appearing before the Panel. The Panel may receive in evidence any statement, document, information, or matter that may in the opinion of the Panel contribute to its functions

*will hearing
shall be scheduled
all supporting
documents and
Panel should meet
to say ok all
submitted documents
have been submitted
in 20 days
then within 10 days
include hearing.*

*also make
determination
all supporting
documents
are submitted
what is "adequate"
need to
be considered
from case
to case*

whether or not such statement, document, information, or matter would be admissible in a court of law.

(b) **Computation of time** In computing any period of time prescribed or allowed by these rules or any order it shall be done by excluding the first day and including the last, unless the last day is a Sunday or holiday, and then it is also excluded.

(c) **Documents, applications; amendment; dismissal** All papers, documents and applications must be written, typewritten, or printed and signed in ink by the party signing the same and must be legible. The signature of the person signing the document or application

constitutes a certification that they have read the document, that to the best of their knowledge, information, and belief, every statement contained in the document is true and no such statements are misleading. If any document or application filed with the Panel is not in substantial conformity with the applicable rules of the Panel as to contents thereof, or is otherwise insufficient, the Panel may on its own motion, or on motion of any party, strike or dismiss such document or application or may require its amendment. If amended, the document or application shall be effective as of the date of the original filing. *Then what happens next, another hearing?*

(d) **Decision.** Upon hearing testimony, the Panel shall recommend to the Planning Commission whether or not the claim has merit and, if so, what amount of compensation shall be paid to the claimant(s). This recommendation shall be forwarded to the Planning Commission within thirty (30) days of the close of the hearing on a particular claim. The Planning Commission may vote to pay the claimant after reviewing the supporting documents and the recommendations made by the Panel if it finds:

(1) That the claimant has been adversely impacted by the activities authorized by Geothermal Resource Permit No. 2, issued by the County of Hawaii, and

(2) The amount of compensation to be granted is deemed by the Planning Commission to be appropriate for the damage caused by the adverse impact as a result of the activity permitted by Geothermal Resource Permit No. 2, issued by the County of Hawaii, or

(3) The proposal for a Puna community mitigation project, will be for the benefit of a majority of Puna residents most directly impacted by geothermal development activities under Geothermal Resource Permit No. 2, issued by the County of Hawaii.

The Planning Commission may bring in expert

witnesses to review the supporting documents and recommendations made by the Panel and then to assist it in making the final decision on any claim. These may include a County Doctor or other such experts as the Commission shall deem necessary.

Compensation shall be granted or denied by an affirmative vote of the majority of the entire voting membership of the Planning Commission (five of the nine members) or by default by the Planning Commission choosing not to consider the Panel's recommendations.

If the Planning Commission does not make a decision on the Panel's recommendations within ninety (90) days from the close of the Panel's hearing, the Panel's recommendations become final.

8. Hearings?
MEETINGS

all hearings
(a) **Convening Meetings** Meetings shall be held in Pahoehoe. The chair shall convene the meeting of the Panel at the scheduled time, or, in the event that a quorum is not present at the scheduled time of the meeting, as soon after that time as a quorum is present. If there is a quorum but not a full Panel when the meeting is convened, and the absent Panel members are not excused, the chair shall recess the meeting for fifteen minutes to allow the absent members to arrive. If the absent members have not arrived during the recess, the chair shall reconvene the meeting, and the alternates shall, in order of priority (First then Second) fill the seats of the absent Panel members. If any Panel member has notified the Panel of his or her absence prior to the scheduled start of the meeting, then the appropriate alternate may be seated for the Panel member at the start of the meeting.
hearing?
(b) **Late Arrivals** If an absent member arrives at the meeting after it has convened, the member shall resume his or her seat on the Panel at the beginning of the hearing of the next claim. When the member resumes the seat, alternates shall be replaced in inverse order of priority.

(c) **Function of Alternates** Alternates who are present at the meeting and who are not filling the seats of Panel members shall remain at the meeting to listen to and study the evidence and testimony to the Panel and may replace any Panel member prior to the vote on a claim in the event that the Panel member is not able to remain throughout the entire hearing and participate in deliberation.

9. HEARING PROCEDURE

(a) **Operating Rules** Each hearing shall be presided over by the chair of the Panel or by the vice-chair if the chair is absent or unavailable. If both the chair

and the vice-chair are absent the quorum of Panel members shall elect one of the members as chair for that meeting. The Panel may formulate and adopt any additional administrative rules and procedures that are necessary for its operation. The hearing shall be conducted in such a way as to afford to interested persons a reasonable opportunity to be heard on matters relevant to the issues involved.

Hearing

(b) Meeting Disruption The chair may remove any person or persons who wilfully disrupts a meeting to prevent or compromise the conduct of the meeting.

(c) Continuance of hearing Each hearing shall be held at the time and place set in the notice of hearing, but may at such time and place be continued from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing, and written notice mailed to the claimant.

(d) Order of proceeding At the commencement of the hearing, the chair shall read the pertinent portions of the notice of hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(e) Submission of evidence All interested persons shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, state their name, address, and whom they represent at the hearing, and shall give such other information with respect to their appearance, as the presiding officer may request. [The chair shall confine the evidence to the questions before the hearing but shall not apply the formal rules of evidence.] Every witness shall be subject to questioning by the chair or by any other member of the Panel, and the applicant and his (her) advocates, shall have the right to produce evidence and to cross-examine witnesses, but cross-examination by private persons shall not be permitted except if the chair expressly permits it. The Panel may accept written testimony and documentary evidence submitted by the parties. The panel may, upon motion of any member, and upon the affirmative vote of a majority of the members of the Panel, request and accept testimony, either written or oral or both, of any person whose specialized knowledge will assist the Panel to understand the evidence or determine a fact in issue.

(f) Transcript of the evidence Unless otherwise specifically ordered by a majority vote of the Panel, at the request of a claimant and to be paid by the

*claims formal
rules of evidence
what about documents
submitted by
applicant*

*What's the difference
between the interested
persons vs those
who provided written
testimony in (d)*

claimant, testimony given at the hearing will not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record.

(g) **Closure of Hearing** When the Panel determines that sufficient evidence on a claim has been presented, it may, by an affirmative vote of the majority, close the hearing.

(h) **Vote** After the hearing has been closed, the Panel shall, by an affirmative vote of the majority of the Panel, vote to recommend granting or denial of the claim. The Panel may also vote to raise or lower the amount of compensation for any claim before voting to recommend the claim be granted.

(i) **Basis for Recommendation to Grant Claim** The Panel shall recommend that a claim be granted if it finds that:

(1) The claimant has been adversely impacted by the activities authorized by Geothermal Resource Permit No. 2, issued by the County of Hawaii; and

(2) The amount of compensation to be granted is appropriate for the damage caused by the adverse impact resulting from the activity permitted by Geothermal Resource Permit No. 2, issued by the County of Hawaii, or

(3) The proposal for a Puna community mitigation project will be for the benefit of a majority of Puna residents most directly impacted by geothermal development activities under Geothermal Resource Permit No. 2, issued by the County of Hawaii.

These findings for recommendation to grant the claim shall be stated in writing.

(j) **Basis for Recommendation to Deny a Claim** The Panel shall recommend that a claim be denied if it finds that:

(1) The claimant has not been adversely impacted by the activities authorized by Geothermal Resource Permit No. 2, issued by the County of Hawaii; or

(2) The proposal for a Puna community mitigation project, would not be for the benefit of a majority of Puna residents most directly impacted by the geothermal development activities under Geothermal Resource Permit No. 2, issued by the County of Hawaii.

The findings for recommendation of denial of the claim shall be stated in writing.

(k) **Planning Commission action.** After the close of the public hearing, the chair of the Panel or his/her

*conflict between
panel &
commission
if panel must
decide, shall be
sufficient evidence
so that commission
may not deny*

designee shall present the findings of fact and the Panel's recommendation prepared under the supervision of the Geothermal Compliance Coordinator to the Planning Commission within thirty (30) days of the close of the hearing on a particular claim. The Planning Commission shall review the findings and recommendation prior to announcing the decision or the date when its decision will be announced. If the Planning Commission does not make a decision on the Panel's recommendation within ninety (90) days from the close of the Panel's hearing, the Panel's recommendation becomes final.

(1) **Reconsideration by Planning Commission.** Any commissioner who voted with the majority may move to reconsider a vote on a claim at the same meeting or the next regular meeting. A decision shall not be reconsidered more than once.

10. AWARD OF COMPENSATION Upon voting to award compensation to claimant(s), the Planning Commission shall prepare a written, brief statement of the facts upon which the vote was decided, a finding that the claimant(s) were adversely affected by the activity permitted by Geothermal Resource Permit No. 2, issued by the County of Hawaii, and a statement of the amount of compensation.

11. DENIAL OF AWARD OF COMPENSATION Upon voting to deny an award of compensation to the claimant, the Planning Commission shall prepare a written, brief statement of the facts upon which the vote was decided, finding that a claimant(s) were not adversely affected, that the proposed project does not mitigate direct detrimental effects caused, or the proposed project will not be for the benefit of a majority of Puna residents most directly affected by the activity permitted by Geothermal Resource Permit No. 2, issued by the County of Hawaii.

12. APPEAL The decision of the Planning Commission whether by vote or by default may be appealed to the Board of Appeals within thirty (30) days from the written receipt of the decision of award or denial.

13. WHEN RULES ARE SILENT.) The rules of parliamentary practice and procedure, as laid down by Robert's Rules of Order, Revised, where not inconsistent with these rules, shall govern the Panel.

14. PETITION FOR ADOPTION, AMENDMENT OR REPEAL OF RULES

(a) Any interested person may petition the Planning Commission requesting the adoption, amendment or repeal of any rule of the Geothermal Asset Fund Rules.

(b) The petition shall be submitted in eight (8) copies and shall include:

- (1) A statement of the nature of the petitioner's interest.
 - (2) A draft or the substance of the proposed rule or amendment or a designation of the provisions sought to be repealed.
 - (3) An explicit statement of the reasons in support of the proposed rule, amendment or repeal.
- (c) The Planning Commission shall within sixty (60) days after the submission of the petition either deny the petition in writing, stating its reasons for such denial, or initiate proceedings in accordance with Chapter 91-3, HRS for the adoption of amendment or repeal of the rule, as the case may be.

15. EMERGENCY RESERVE One hundred thousand dollars (\$100,000) of the Geothermal Asset Fund shall be held in reserve for emergency situations as defined in the Emergency Response Plan (ERP), Version 6.1, dated February, 1992, that require instant funding such as temporary evacuation. Normal, non-emergency, Planning Commission approved, claims against the Geothermal Asset Fund will be paid from the fund providing the total dollar value in the asset fund does not drop below \$100,000. Approved claims that would decrease the amount in the Fund below its \$100,000 reserve will be held, pending the next contribution to the Fund.

The Planning Director may approve disbursement of these reserve funds in a emergency situation, but justification for the release of these monies from the Geothermal Asset Fund will need to be approved retroactively by the Panel and the Planning Commission. It is expected that true emergency situations caused by operations of Puna Geothermal Venture under their Geothermal Resources Permit No. 2, will be their responsibility and the monies expended from the fund will be reimbursed.

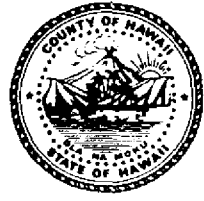
These emergency monies, held in reserve, must be permanently appropriated so that they are immediately accessible by the Planning Director's signature without further administrative or Council action.

16. ADMINISTRATIVE COSTS Direct administrative costs necessary for the operation of the Geothermal Asset Fund Panel and those costs necessary to process claims may be approved for payment from the Geothermal Asset Fund by the Planning Director. These include, but are not limited to, copying costs, media notices, staff overtime, meals and mileage for Panel members, alternates and staff as necessary, etc.

17. OTHER RIGHTS Nothing in this rule shall be construed to deprive or deny any person any other right or recourse under law.

JACIL
WL

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director
Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

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93 OCT 28 P 2: 51
DIN. OF WATER &
LAND DEVELOPMENT

October 25, 1993

Mr. Keith Ahue, Director
Department of Land and
Natural Resources
P. O. Box 621
Honolulu, HI 96809

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Geothermal Asset Fund Rules

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If your Department has comments, please submit them in writing at least one week in advance of the above date.

Thank you for your continued interest in the Geothermal Asset Fund Rules.

Sincerely,

VIRGINIA GOLDSTEIN
Planning Director

JEM:mjs
1317D (2)
Enclosure

PLANNING COMMISSION
COUNTY OF HAWAII
GEOHERMAL ASSET FUND RULES

DRAFT

9/9/93

1. **PURPOSE** The purpose of these rules is to allow the Planning Commission to authorize payment of money from the Geothermal Asset Fund (the Fund) to claimants whom the Planning Commission finds have been adversely impacted by activities authorized by Geothermal Resource Permit No. 2, issued by the County of Hawaii and to authorize payments for geothermal impact mitigation projects within the district of Puna. The Geothermal Asset Fund was created pursuant to Condition 51 of Geothermal Resource Permit (GRP) No. 2, issued to Puna Geothermal Venture on October 3, 1989.

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3. **DEFINITIONS** "HEARING" means the taking of evidence concerning a claim for the purpose of voting on a recommendation to the planning commission as to the granting or denial of the claim.

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(c) Upon appointment, and at the first meeting, the voting members of the Panel shall elect one of their members as chair and another as vice-chair. The chair and vice-chair may be removed and replaced at any time by a majority vote of the five Panel members.

(d) If any Panel member shall be unable to attend a hearing of the Panel, the first alternate or if he(she) is unavailable, the second alternate shall serve in that member's place. If any Panel member shall file a claim for compensation from the Fund, then the first alternate or if he(she) is unavailable, the second alternate shall serve in that member's place at the hearing at which the member's claim is considered. If for any reason a Panel member vacates his (her) seat prior to the completion of the member's term, the first alternate or if he(she) is unavailable, the second alternate shall serve in that seat until a new member is appointed.

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6. FILING OF CLAIMS

(a) All claims for compensation for adverse impact pursuant to this rule shall be filed with the Hawaii County Planning Department, 25 Aupuni Street, Hilo, Hawaii 96720.

(b) Each claim shall include the following information:

- (1) Name of claimant(s). When the claimant is an organization, the claimant shall submit a list of officers, a membership list, and a copy of the organization's by-laws.
- (2) Address of claimant(s).
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whether or not such statement, document, information, or matter would be admissible in a court of law.

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(d) **Decision.** Upon hearing testimony, the Panel shall recommend to the Planning Commission whether or not the claim has merit and, if so, what amount of compensation shall be paid to the claimant(s). This recommendation shall be forwarded to the Planning Commission within thirty (30) days of the close of the hearing on a particular claim. The Planning Commission may vote to pay the claimant after reviewing the supporting documents and the recommendations made by the Panel if it finds:

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If the Planning Commission does not make a decision on the Panel's recommendations within ninety (90) days from the close of the Panel's hearing, the Panel's recommendations become final.

8. MEETINGS

(a) **Convening Meetings** Meetings shall be held in Pahoa. The chair shall convene the meeting of the Panel at the scheduled time, or, in the event that a quorum is not present at the scheduled time of the meeting, as soon after that time as a quorum is present. If there is a quorum but not a full Panel when the meeting is convened, and the absent Panel members are not excused, the chair shall recess the meeting for fifteen minutes to allow the absent members to arrive. If the absent members have not arrived during the recess, the chair shall reconvene the meeting, and the alternates shall, in order of priority (First then Second) fill the seats of the absent Panel members. If any Panel member has notified the Panel of his or her absence prior to the scheduled start of the meeting, then the appropriate alternate may be seated for the Panel member at the start of the meeting.

(b) **Late Arrivals** If an absent member arrives at the meeting after it has convened, the member shall resume his or her seat on the Panel at the beginning of the hearing of the next claim. When the member resumes the seat, alternates shall be replaced in inverse order of priority.

(c) **Function of Alternates** Alternates who are present at the meeting and who are not filling the seats of Panel members shall remain at the meeting to listen to and study the evidence and testimony to the Panel and may replace any Panel member prior to the vote on a claim in the event that the Panel member is not able to remain throughout the entire hearing and participate in deliberation.

9. HEARING PROCEDURE

(a) **Operating Rules** Each hearing shall be presided over by the chair of the Panel or by the vice-chair if the chair is absent or unavailable. If both the chair

and the vice-chair are absent the quorum of Panel members shall elect one of the members as chair for that meeting. The Panel may formulate and adopt any additional administrative rules and procedures that are necessary for its operation. The hearing shall be conducted in such a way as to afford to interested persons a reasonable opportunity to be heard on matters relevant to the issues involved.

(b) **Meeting Disruption** The chair may remove any person or persons who wilfully disrupts a meeting to prevent or compromise the conduct of the meeting.

(c) **Continuance of hearing** Each hearing shall be held at the time and place set in the notice of hearing, but may at such time and place be continued from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing, and written notice mailed to the claimant.

(d) **Order of proceeding** At the commencement of the hearing, the chair shall read the pertinent portions of the notice of hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(e) **Submission of evidence** All interested persons shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, state their name, address, and whom they represent at the hearing, and shall give such other information with respect to their appearance, as the presiding officer may request. The chair shall confine the evidence to the questions before the hearing but shall not apply the formal rules of evidence. Every witness shall be subject to questioning by the chair or by any other member of the Panel, and the applicant and his (her) advocates, shall have the right to produce evidence and to cross-examine witnesses, but cross-examination by private persons shall not be permitted except if the chair expressly permits it. The Panel may accept written testimony and documentary evidence submitted by the parties. The panel may, upon motion of any member, and upon the affirmative vote of a majority of the members of the Panel, request and accept testimony, either written or oral or both, of any person whose specialized knowledge will assist the Panel to understand the evidence or determine a fact in issue.

(f) **Transcript of the evidence** Unless otherwise specifically ordered by a majority vote of the Panel, at the request of a claimant and to be paid by the

claimant, testimony given at the hearing will not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record.

(g) **Closure of Hearing** When the Panel determines that sufficient evidence on a claim has been presented, it may, by an affirmative vote of the majority, close the hearing.

(h) **Vote** After the hearing has been closed, the Panel shall, by an affirmative vote of the majority of the Panel, vote to recommend granting or denial of the claim. The Panel may also vote to raise or lower the amount of compensation for any claim before voting to recommend the claim be granted.

(i) **Basis for Recommendation to Grant Claim** The Panel shall recommend that a claim be granted if it finds that:

(1) The claimant has been adversely impacted by the activities authorized by Geothermal Resource Permit No. 2, issued by the County of Hawaii; and

(2) The amount of compensation to be granted is appropriate for the damage caused by the adverse impact resulting from the activity permitted by Geothermal Resource Permit No. 2, issued by the County of Hawaii, or

(3) The proposal for a Puna community mitigation project will be for the benefit of a majority of Puna residents most directly impacted by geothermal development activities under Geothermal Resource Permit No. 2, issued by the County of Hawaii.

These findings for recommendation to grant the claim shall be stated in writing.

(j) **Basis for Recommendation to Deny a Claim** The Panel shall recommend that a claim be denied if it finds that:

(1) The claimant has not been adversely impacted by the activities authorized by Geothermal Resource Permit No. 2, issued by the County of Hawaii; or

(2) The proposal for a Puna community mitigation project, would not be for the benefit of a majority of Puna residents most directly impacted by the geothermal development activities under Geothermal Resource Permit No. 2, issued by the County of Hawaii.

The findings for recommendation of denial of the claim shall be stated in writing.

(k) **Planning Commission action.** After the close of the public hearing, the chair of the Panel or his/her

designee shall present the findings of fact and the Panel's recommendation prepared under the supervision of the Geothermal Compliance Coordinator to the Planning Commission within thirty (30) days of the close of the hearing on a particular claim. The Planning Commission shall review the findings and recommendation prior to announcing the decision or the date when its decision will be announced. If the Planning Commission does not make a decision on the Panel's recommendation within ninety (90) days from the close of the Panel's hearing, the Panel's recommendation becomes final.

(1) **Reconsideration by Planning Commission.** Any commissioner who voted with the majority may move to reconsider a vote on a claim at the same meeting or the next regular meeting. A decision shall not be reconsidered more than once.

10. AWARD OF COMPENSATION Upon voting to award compensation to claimant(s), the Planning Commission shall prepare a written, brief statement of the facts upon which the vote was decided, a finding that the claimant(s) were adversely affected by the activity permitted by Geothermal Resource Permit No. 2, issued by the County of Hawaii, and a statement of the amount of compensation.

11. DENIAL OF AWARD OF COMPENSATION Upon voting to deny an award of compensation to the claimant, the Planning Commission shall prepare a written, brief statement of the facts upon which the vote was decided, finding that a claimant(s) were not adversely affected, that the proposed project does not mitigate direct detrimental effects caused, or the proposed project will not be for the benefit of a majority of Puna residents most directly affected by the activity permitted by Geothermal Resource Permit No. 2, issued by the County of Hawaii.

12. APPEAL The decision of the Planning Commission whether by vote or by default may be appealed to the Board of Appeals within thirty (30) days from the written receipt of the decision of award or denial.

13. WHEN RULES ARE SILENT. The rules of parliamentary practice and procedure, as laid down by Robert's Rules of Order, Revised, where not inconsistent with these rules, shall govern the Panel.

14. PETITION FOR ADOPTION, AMENDMENT OR REPEAL OF RULES

(a) Any interested person may petition the Planning Commission requesting the adoption, amendment or repeal of any rule of the Geothermal Asset Fund Rules.

(b) The petition shall be submitted in eight (8) copies and shall include:

- (1) A statement of the nature of the petitioner's interest.
 - (2) A draft or the substance of the proposed rule or amendment or a designation of the provisions sought to be repealed.
 - (3) An explicit statement of the reasons in support of the proposed rule, amendment or repeal.
- (c) The Planning Commission shall within sixty (60) days after the submission of the petition either deny the petition in writing, stating its reasons for such denial, or initiate proceedings in accordance with Chapter 91-3, HRS for the adoption of amendment or repeal of the rule, as the case may be.

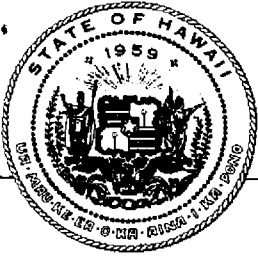
15. EMERGENCY RESERVE One hundred thousand dollars (\$100,000) of the Geothermal Asset Fund shall be held in reserve for emergency situations as defined in the Emergency Response Plan (ERP), Version 6.1, dated February, 1992, that require instant funding such as temporary evacuation. Normal, non-emergency, Planning Commission approved, claims against the Geothermal Asset Fund will be paid from the fund providing the total dollar value in the asset fund does not drop below \$100,000. Approved claims that would decrease the amount in the Fund below its \$100,000 reserve will be held, pending the next contribution to the Fund.

The Planning Director may approve disbursement of these reserve funds in a emergency situation, but justification for the release of these monies from the Geothermal Asset Fund will need to be approved retroactively by the Panel and the Planning Commission. It is expected that true emergency situations caused by operations of Puna Geothermal Venture under their Geothermal Resources Permit No. 2, will be their responsibility and the monies expended from the fund will be reimbursed.

These emergency monies, held in reserve, must be permanently appropriated so that they are immediately accessible by the Planning Director's signature without further administrative or Council action.

16. ADMINISTRATIVE COSTS Direct administrative costs necessary for the operation of the Geothermal Asset Fund Panel and those costs necessary to process claims may be approved for payment from the Geothermal Asset Fund by the Planning Director. These include, but are not limited to, copying costs, media notices, staff overtime, meals and mileage for Panel members, alternates and staff as necessary, etc.

17. OTHER RIGHTS Nothing in this rule shall be construed to deprive or deny any person any other right or recourse under law.



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

JOHN WAIHEE
GOVERNOR

ROGER A. ULVELING
DIRECTOR

BARBARA KIM STANTON
DEPUTY DIRECTOR

LESLIE S. MATSUBARA
DEPUTY DIRECTOR

HAWAII ISLAND OFFICE: CENTURY BUILDING 80 PALAHI STREET, SUITE 207 HILO, HAWAII 96720
TELEPHONE: (808) 933-4600 FAX: (808) 933-4602

RECEIVED
MAY 13 12: 22

WATER &
LAND DEVELOPMENT

May 8, 1991

MEMORANDUM

TO: The Honorable Murray Towill, Director/DBED
The Honorable Willaim Paty, Director/DLNR
Manabu Tagamori, Deputy Director, DLNR
Dean Nakano, Planner/DLNR
Maurice Kaya, Division Head, Energy/DBED
Dean Anderson, Program Mgr., Geothermal/DBED

FROM: Michelle Wong-Wilson *MW*

SUBJECT: Geothermal Asset Fund Rules Meeting
May 7, 1991

A meeting was held at the Pahoa Neighborhood Center at 9:30 am on May 7, 1991.

I was unable to attend the meeting, however, it is my understanding that the following changes were made to Draft #3, which is attached.

1. PURPOSE: Expand purpose to include all geothermal activities.
2. (d): Signatures of 25 people required for nominating candidates, define community organizations.
4. (c): Refer to 6 (e). Create claim form.
5. (a): Insert time frame to hold hearing. Require Chair to administer oath.
- 5 (d) (1): Change from Group 2 to Geothermal Activity
6. (b): Require applicant be notified.
6. (g): Add more clarifying language and operational procedure. Robert's Rules will apply.

Memorandum
Page 2
May 8, 1991

The following issues were brought up:

1. Who will provide Clerical and Technical assistance?
2. Add in section for amendment procedures.
3. Add in use of alternates and procedures.

The next meeting is tentatively scheduled for May 17, 1991,
9:00 am at the Pahoa Neighborhood Center.

GEOHERMAL ASSET FUND RULES

1. PURPOSE. There shall be created a Panel to be known as the Geothermal Claims Panel. The purpose of the Panel is to distribute the money in the Geothermal Asset Fund, which was created pursuant to Condition 51 of Geothermal Resource Permit (GRP) No. 2, issued to Puna Geothermal Venture on October 3, 1989. The Panel shall authorize payment of money from the fund to claimants whom the Panel finds have been adversely impacted by the activities authorized by GRP 2.

2. PANEL MEMBERSHIP.

(a) The Panel shall consist of seven (7) members, and the Planning Director of the County of Hawaii or his duty authorized representative as a non-voting member, and two alternate members.

(b) The members of the Panel shall be residents of the Puna district, and shall serve staggered terms of three years from the date of election. In the first election for the Panel, those candidates with the two highest vote totals in their favor shall serve terms of four years from the date of election. In the first election, those candidates with the third and fourth highest vote totals in their favor shall serve terms of three years from the date of election. In the first election, the candidates with the fifth, sixth and seventh highest vote totals in their favor shall serve terms of two years from the date of election. In the first

election, the candidates receiving the eighth and ninth highest vote totals in their favor shall serve as alternate members for terms of three years each. Upon expiration of each Panel member's term, a new election shall be held, with the winner serving a term of three (3) years from the date of election.

(c) The Panel members shall be elected in an election of registered voters residing within the district of Puna, which shall certify the results. The Puna Community Council shall create rules for the administration of the election, including the nomination of candidates, the voting procedures and other aspects of the election.

(d) The community organizations representing the residents living within fifteen miles of the geothermal subzone shall submit to the Puna Community Council a list of not more than eight names of candidates for Panel membership.

(e) Upon election, the Panel members shall elect one of their members as chair and another as vice-chair.

(f) If any Panel member shall be unable to attend a hearing of the Panel, one of the alternates shall serve in that member's place. If any Panel member shall file a claim for compensation from the Geothermal Asset Fund, then one of the alternates shall serve in that member's place at the hearing at which the member's claim is considered.

3. ELIGIBILITY OF CLAIMS. Claims for compensation from the Geothermal Asset Fund may be filed by any person who is adversely

affected by the activity of Puna Geothermal Venture authorized by GRP 87-1. Such adverse impact shall include physical injury, medical and health conditions, business or economic loss, loss of residential property value, nuisance, or any other claim which is able to be substantiated by evidence.

4. FILING OF CLAIMS.

(a) All claims for compensation for adverse impact pursuant to this rule shall be filed with the Hawaii County Planning Department, 25 Aupuni Street, Hilo, Hawaii 96720.

(b) Each claim shall include the following information:

(1) Name of claimant(s).

(2) Address of claimant(s).

(3) Date of filing of claim.

(4) Description of the nature of the claim, including the way in which claimant(s) has been adversely impacted by the activity and the compensation sought.

(5) A filing fee of \$50.00.

(c) Each claim shall be accompanied by evidence of the aforementioned adverse impact and request for compensation. Such evidence may include written reports and testimony, photographs, bills, invoices, and other documentary evidence. The claim application and submitted evidence shall be a matter of public record and copies shall be distributed to the Panel members who will hear the claim.

5. HEARINGS.

(a) Whenever an application is made for compensation, the Panel shall conduct a hearing as soon as practicable after receipt of the application. The Panel shall give notice of the hearing to the claimant(s). Such notice shall be given not less than ten days prior to the date set for hearing on the application and shall state the time and place of the hearing. Such hearing may by announcement at such time and place be continued from day to day or adjourn to a later date without notice. All hearings shall be open to the public.

The hearing shall be conducted by the chairman or a designated representative. Any four voting members shall constitute a quorum. Any member of the Panel may administer oaths or affirmations to witnesses appearing before the Panel. The commission may receive in evidence any statement, document, information, or matter that may in the opinion of the commission contribute to its functions whether or not such statement, document, information, or matter would be admissible in a court of law.

(b) Computation of time. In computing any period of time prescribed or allowed by these rules or any order it shall be done by excluding the first day and including the last, unless the last day is a Sunday or holiday, and then it is also excluded.

(c) Documents, applications; amendment; dismissal. All papers, documents and applications must be written, typewritten,

or printed and signed in ink by the party signing the same and must be legible. The signature of the person signing the document or application constitutes a certification that they have read the document, that to the best of their knowledge, information and belief every statement contained in the document is true and no such statements are misleading.

If any document or application filed with the Panel is not in substantial conformity with the applicable rules of the Panel as the contents thereof, or is otherwise insufficient, the Panel may on its own motion, or on motion of any party, strike or dismiss such document or application or may require its amendment. If amended, the document or application shall be effective as of the date of the original filing.

(d) Upon hearing testimony, the Panel shall vote whether or not the claim has merit and, if so, what amount of compensation shall be paid to the claimant(s). The Panel may vote to pay the claimant if it finds, by a preponderance of the evidence that:

(1) The adverse impact would not have occurred but for the activity permitted by GRP No. 2; and

(2) The amount of compensation to be granted is deemed by the Panel to appropriate for the damage caused by the adverse impact caused by the activity permitted by GRP No. 2.

No compensation may be granted except by an affirmative vote of the majority of the entire voting membership of the Panel. In

counting the number of members of the Panel, alternate members are not included.

6. HEARING PROCEDURE.

(a) Each hearing shall be presided over by the chair of the Panel or by the vice-chair if the chair is absent or unavailable. The hearing shall be conducted in such a way as to afford to interested persons a reasonable opportunity to be heard on matters relevant to the issues involved.

(b) Continuance of hearing. Each hearing shall be held at the time and place set in the notice of hearing, but may at such time and place be continued from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing.

(c) Order of proceeding. At the commencement of the hearing, the presiding officer shall read the pertinent portions of the notice of hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(d) Submission of evidence. All interested persons shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, state their name, address, and whom they represent at the hearing, and shall give such other information respecting their appearance as the

presiding officer may request. The presiding officer shall confine the evidence to the questions before the hearing but shall not apply the formal rules of evidence. Every witness shall be subject to questioning by the presiding officer or by any other representative of the Panel, and applicant shall have the right to produce evidence and to cross-examine witnesses, but cross-examination by private persons shall not be permitted except if the presiding officer expressly permits it. The Panel may also accept written testimony and documentary evidence.

(e) Transcript of the evidence. Unless otherwise specifically ordered by the Panel or the presiding officer, testimony given at the hearing need not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that the furnishing of the required number of copies impracticable and reduces the number, ten copies of the exhibits shall be submitted.

(f) Commission action. At the close of the final public hearing, the commission shall announce the decision or the date when its decision will be announced.

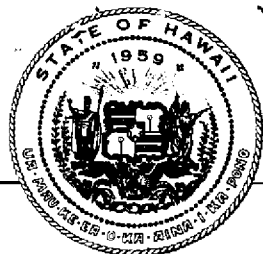
(g) Reconsideration by Panel; judicial review. The Panel may, at any time, on its own motion or on the application of any person aggrieved by an order or decision of the Panel,

reconsider the order or decision and revoke, confirm, or vary the order or decision, based upon the Panel's findings.

7. AWARD OF COMPENSATION. Upon voting to award compensation to claimant(s), the Panel shall prepare a written, brief statement of the facts upon which the vote was decided, a finding that the claimant(s) were adversely affected by the activity permitted by GRP No. 2, and a statement of the amount of compensation. This statement shall be approved by the mayor prior to payment of any funds.

8. APPEAL. Claimant may appeal the decision of the Panel to the Board of Appeals within thirty (30) days of said decision.

9. OTHER RIGHTS. Nothing in this rule shall be construed to deprive or deny any person any other right or recourse under law.



*MT- Asset Fund was a DLNR lead-
conce. that this act has 91. p as*

**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

HAWAII ISLAND OFFICE: CENTURY BUILDING 80 PALUHI STREET, SUITE 207 HILO, HAWAII 96720
TELEPHONE: (808) 933-4600 FAX: (808) 933-4602

April 22, 1991

MEMORANDUM

*gang off into uncharted waters - is
relocating it. who has/may say
here?*

TO: The Honorable Murray Towill, Director/DBED
The Honorable William Paty, Director/DLNR
Manabu Tagamori, Deputy Director/DLNR
Dean Nakano, Planner/DLNR
Maurice Kaya, Division Head, Energy/DBED
Dean Anderson, Program Mgr., Geothermal/DBED

FROM: Michelle Wong-Wilson *MW*

SUBJECT: Geothermal Asset Fund Rules Meeting #2
April 15, 1991

The following persons met to continue discussion of rules
for the County's Geothermal Asset Fund:

Luana Jones, Jane Hedtke, Bob Pettrici,
Greg Pommerenk, Steve Phillips, Ron Phillips,
Butch Clark, Tad Nagasako, Rodney Nakano,
Fred Giannini (Corp. Counsel), Council Chairman
Russell Kokubun and myself, Gary Alexander of Puna
also sat in on a portion of the meeting

The group began discussions based on DRAFT 2 of the rules
which was distributed by the Corporation Counsel April 12

The following issues were discussed and changes made in the
order listed on Draft #2.

1. Purpose: Correct GRP No. 87-1 to GRP No. 87-2.
2. Panel Membership: Panel shall consist of seven (7) voting members and the Director of Planning for the County who is a non-voting member. Members shall be elected by popular vote of registered voters residing in the Puna District.

Candidates shall reside in the Puna District
and have a residency of 1 year. Candidates
must file nomination papers signed by ten

336
JOHN WAIHEE
GOVERNOR

ROGER A. ULVELING
DIRECTOR

BARBARA KIM STANTON
DEPUTY DIRECTOR

LESLIE S. MATSUBARA
DEPUTY DIRECTOR

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other registered voters from Puna. Puna Community Council shall operate the election process with oversight by the League of Women Voters.

Members shall serve staggered terms, those receiving the highest votes shall serve the longest terms. The members shall elect a Chair and Vice-Chair from among the group. Parts 2 (c) and (d) are eliminated.

3. Eligibility of Claims: There was discussion that noise impacts be included in the list of adverse impacts. The group agreed to add the language but not be limited to the list of adverse impacts. The key phrase is "substantial claim". The impact must be "provable". Corporation Counsel will add more language to define a substantial claim.
4. Filing of Claims: Discussion was held over a Filing Fee. \$50.00 was agreed upon for purposes of discussion. The fee will be applied to administration costs, which are primarily newspaper advertising of hearing date. Also, seven copies must accompany the filing of the claim.
5. Public Hearing: 5 (b) the permittee will receive a copy of the Notice of Hearing and the Claim. 5 (c) delete the phrase "upon the closing of the hearing" and replace with "after taking testimony".

There was discussion about (5 c) (2) "the amount of compensation to be granted is equal to the damage caused by the adverse impact caused by the activity permitted by GRP 87-2". The major concern is the unknown amount available in the fund. For example, if the first award given is for permanent relocation, then the fund could be depleted. Some members of the group advocate that position. In fact, if the fund is depleted before the award is satisfied, the balance would be paid out of future funds. Others asked questions about leveraging the funds in order to provide more dollars to pay for impacts, i.e. committing revenues from future to pay for a loan. Also the question of property ownership came up. If the fund paid for permanent relocation, who would own the property and could the property be resold to recover monies. Or if the

Memorandum
Page 3
April 15, 1991

claimant sells his house at a lower value and has proven that loss of value was due to the geothermal activity, can he apply for recovery of that loss to the Asset Fund? Corporation Counsel will review the legality of these issues

Discussion was also held on priority of claims. The group requested that:

1. Claims be given priority on the order that the claim was filed, and;
2. Claimants be residents of the affected household prior to the issuance of the GRP. Any resident who knowingly moves into an affected area does not qualify for claim, when and if they suffer an impact.

Also brought up as the ability to use contested case hearing process for the asset fund. Corporation Counsel agreed that it was allowed.

Corporation Counsel agreed to provide Draft #3. The next meeting of this group is scheduled for April 30th, Tuesday at 9:00 am.



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 621
HONOLULU, HAWAII 96809

REF:WL-KO

WILLIAM W. PATY, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

LIBERT K. LANDGRAF
DEPUTY

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

MEMORANDUM

TO: Honorable Roger Ulveling, Director
Department of Business & Economic Development

FROM: William W. Paty, Chairperson
Board of Land and Natural Resources

SUBJECT: Request for Information Relating to Geothermal
Development Impacts

In response to your memorandum dated September 8, 1989, requesting information relating to the proposed establishment of a State asset fund for the benefit of communities impacted by geothermal development, the Department of Land and Natural Resources submits the following comments:

In the Governor's letter to Mr. Peter Adler, dated August 16, 1989, which addressed the issue of compensation, the Department of Land and Natural Resources was designated as the lead agency on this matter. Additionally, it is clear that the Governor intended that a task force comprised of county-community members, in coordination with the State, would determine the specifics of such a fund. As such, implementation of this compensation plan which is envisioned to be managed at the county level working with the community groups, necessitates further meetings with the respective parties. On this matter, the Department is in the process of arranging meetings of the parties involved. Discussions will initially focus on two areas identified by the Governor.

First, the State's initiation of CIP projects for infrastructure, recreational, and community based facilities. Direct benefits may include, but not be limited to, (1) improvements to the existing county water system and construction of new county water lines into those communities currently utilizing water catchment systems, (2) the creation of new parks, and (3) the improvement of county roads in the impacted community.

Second, means to derive funds from the State's geothermal regulations which may necessitate new legislation.

It must be emphasized that concept of community benefit endorsed by the Governor in his letter, is directed primarily to the maintenance or enhancement of the community's quality of life rather than direct compensation to impacted individuals.

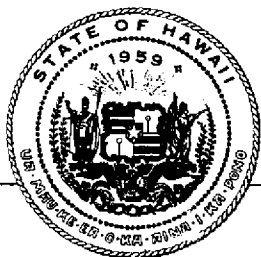
In closing, the Department in its role as the designated lead agency on this matter, is arranging meetings to flesh out details of the asset fund, to begin discussion on the specifics of the compensation plan, and further offer its assistance in drafting any legislation which may be required in order to implement the funding of such a fund.

I hope this information will be useful in your preparation of testimony for the September 19, 1989, Planning Commission meeting in Kona. Should you have any questions, please contact Manabu Tagomori, Deputy Director, at Ext. 7533.

WILLIAM W. PATY

Not my
body's fault
we got late

File
to late



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

HAWAII ISLAND OFFICE: CENTURY BUILDING 80 PALAHI STREET, SUITE 207 HILO, HAWAII 96720
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LESLIE S. MATSUBARA
DEPUTY DIRECTOR

May 8, 1991

MEMORANDUM

TO: The Honorable Murray Towill, Director/DBED
The Honorable Willaim Paty, Director/DLNR
Manabu Tagamori, Deputy Director, DLNR
Dean Nakano, Planner/DLNR
Maurice Kaya, Division Head, Energy/DBED
Dean Anderson, Program Mgr., Geothermal/DBED

FROM: Michelle Wong-Wilson *[Signature]*

SUBJECT: Geothermal Asset Fund Rules Meeting
May 7, 1991

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I was unable to attend the meeting, however, it is my understanding that the following changes were made to Draft #3, which is attached.

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6. (b): Require applicant be notified.
6. (g): Add more clarifying language and operational procedure. Robert's Rules will apply.

Memorandum
Page 2
May 8, 1991

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2. Add in section for amendment procedures.
3. Add in use of alternates and procedures.

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9:00 am at the Pahoia Neighborhood Center.

GEOHERMAL ASSET FUND RULES

1. PURPOSE. There shall be created a Panel to be known as the Geothermal Claims Panel. The purpose of the Panel is to distribute the money in the Geothermal Asset Fund, which was created pursuant to Condition 51 of Geothermal Resource Permit (GRP) No. 2, issued to Puna Geothermal Venture on October 3, 1989. The Panel shall authorize payment of money from the fund to claimants whom the Panel finds have been adversely impacted by the activities authorized by GRP 2.

2. PANEL MEMBERSHIP.

(a) The Panel shall consist of seven (7) members, and the Planning Director of the County of Hawaii or his duty authorized representative as a non-voting member, and two alternate members.

(b) The members of the Panel shall be residents of the Puna district, and shall serve staggered terms of three years from the date of election. In the first election for the Panel, those candidates with the two highest vote totals in their favor shall serve terms of four years from the date of election. In the first election, those candidates with the third and fourth highest vote totals in their favor shall serve terms of three years from the date of election. In the first election, the candidates with the fifth, sixth and seventh highest vote totals in their favor shall serve terms of two years from the date of election. In the first

election, the candidates receiving the eighth and ninth highest vote totals in their favor shall serve as alternate members for terms of three years each. Upon expiration of each Panel member's term, a new election shall be held, with the winner serving a term of three (3) years from the date of election.

(c) The Panel members shall be elected in an election of registered voters residing within the district of Puna, which shall certify the results. The Puna Community Council shall create rules for the administration of the election, including the nomination of candidates, the voting procedures and other aspects of the election.

(d) The community organizations representing the residents living within fifteen miles of the geothermal subzone shall submit to the Puna Community Council a list of not more than eight names of candidates for Panel membership.

(e) Upon election, the Panel members shall elect one of their members as chair and another as vice-chair.

(f) If any Panel member shall be unable to attend a hearing of the Panel, one of the alternates shall serve in that member's place. If any Panel member shall file a claim for compensation from the Geothermal Asset Fund, then one of the alternates shall serve in that member's place at the hearing at which the member's claim is considered.

3. ELIGIBILITY OF CLAIMS. Claims for compensation from the Geothermal Asset Fund may be filed by any person who is adversely

affected by the activity of Puna Geothermal Venture authorized by GRP 87-1. Such adverse impact shall include physical injury, medical and health conditions, business or economic loss, loss of residential property value, nuisance, or any other claim which is able to be substantiated by evidence.

4. FILING OF CLAIMS.

(a) All claims for compensation for adverse impact pursuant to this rule shall be filed with the Hawaii County Planning Department, 25 Aupuni Street, Hilo, Hawaii 96720.

(b) Each claim shall include the following information:

(1) Name of claimant(s).

(2) Address of claimant(s).

(3) Date of filing of claim.

(4) Description of the nature of the claim, including the way in which claimant(s) has been adversely impacted by the activity and the compensation sought.

(5) A filing fee of \$50.00.

(c) Each claim shall be accompanied by evidence of the aforementioned adverse impact and request for compensation. Such evidence may include written reports and testimony, photographs, bills, invoices, and other documentary evidence. The claim application and submitted evidence shall be a matter of public record and copies shall be distributed to the Panel members who will hear the claim.

5. HEARINGS.

(a) Whenever an application is made for compensation, the Panel shall conduct a hearing as soon as practicable after receipt of the application. The Panel shall give notice of the hearing to the claimant(s). Such notice shall be given not less than ten days prior to the date set for hearing on the application and shall state the time and place of the hearing. Such hearing may by announcement at such time and place be continued from day to day or adjourn to a later date without notice. All hearings shall be open to the public.

The hearing shall be conducted by the chairman or a designated representative. Any four voting members shall constitute a quorum. Any member of the Panel may administer oaths or affirmations to witnesses appearing before the Panel. The commission may receive in evidence any statement, document, information, or matter that may in the opinion of the commission contribute to its functions whether or not such statement, document, information, or matter would be admissible in a court of law.

(b) Computation of time. In computing any period of time prescribed or allowed by these rules or any order it shall be done by excluding the first day and including the last, unless the last day is a Sunday or holiday, and then it is also excluded.

(c) Documents, applications; amendment; dismissal. All papers, documents and applications must be written, typewritten,

or printed and signed in ink by the party signing the same and must be legible. The signature of the person signing the document or application constitutes a certification that they have read the document, that to the best of their knowledge, information and belief every statement contained in the document is true and no such statements are misleading.

If any document or application filed with the Panel is not in substantial conformity with the applicable rules of the Panel as the contents thereof, or is otherwise insufficient, the Panel may on its own motion, or on motion of any party, strike or dismiss such document or application or may require its amendment. If amended, the document or application shall be effective as of the date of the original filing.

(d) Upon hearing testimony, the Panel shall vote whether or not the claim has merit and, if so, what amount of compensation shall be paid to the claimant(s). The Panel may vote to pay the claimant if it finds, by a preponderance of the evidence that:

(1) The adverse impact would not have occurred but for the activity permitted by GRP No. 2; and

(2) The amount of compensation to be granted is deemed by the Panel to appropriate for the damage caused by the adverse impact caused by the activity permitted by GRP No. 2.

No compensation may be granted except by an affirmative vote of the majority of the entire voting membership of the Panel. In

counting the number of members of the Panel, alternate members are not included.

6. HEARING PROCEDURE.

(a) Each hearing shall be presided over by the chair of the Panel or by the vice-chair if the chair is absent or unavailable. The hearing shall be conducted in such a way as to afford to interested persons a reasonable opportunity to be heard on matters relevant to the issues involved.

(b) Continuance of hearing. Each hearing shall be held at the time and place set in the notice of hearing, but may at such time and place be continued from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing.

(c) Order of proceeding. At the commencement of the hearing, the presiding officer shall read the pertinent portions of the notice of hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(d) Submission of evidence. All interested persons shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, state their name, address, and whom they represent at the hearing, and shall give such other information respecting their appearance as the

presiding officer may request. The presiding officer shall confine the evidence to the questions before the hearing but shall not apply the formal rules of evidence. Every witness shall be subject to questioning by the presiding officer or by any other representative of the Panel, and applicant shall have the right to produce evidence and to cross-examine witnesses, but cross-examination by private persons shall not be permitted except if the presiding officer expressly permits it. The Panel may also accept written testimony and documentary evidence.

(e) Transcript of the evidence. Unless otherwise specifically ordered by the Panel or the presiding officer, testimony given at the hearing need not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that the furnishing of the required number of copies impracticable and reduces the number, ten copies of the exhibits shall be submitted.

(f) Commission action. At the close of the final public hearing, the commission shall announce the decision or the date when its decision will be announced.

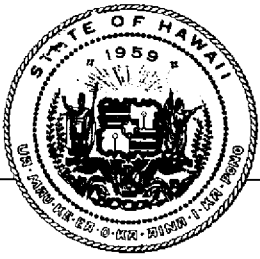
(g) Reconsideration by Panel; judicial review. The Panel may, at any time, on its own motion or on the application of any person aggrieved by an order or decision of the Panel,

reconsider the order or decision and revoke, confirm, or vary the order or decision, based upon the Panel's findings.

7. AWARD OF COMPENSATION. Upon voting to award compensation to claimant(s), the Panel shall prepare a written, brief statement of the facts upon which the vote was decided, a finding that the claimant(s) were adversely affected by the activity permitted by GRP No. 2, and a statement of the amount of compensation. This statement shall be approved by the mayor prior to payment of any funds.

8. APPEAL. Claimant may appeal the decision of the Panel to the Board of Appeals within thirty (30) days of said decision.

9. OTHER RIGHTS. Nothing in this rule shall be construed to deprive or deny any person any other right or recourse under law.



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

HAWAII ISLAND OFFICE: CENTURY BUILDING 80 PALUHI STREET, SUITE 207 HILO, HAWAII 96720
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JOHN WAIHEE
GOVERNOR

ROGER A. ULVELING
DIRECTOR

BARBARA KIM STANTON
DEPUTY DIRECTOR

LESLIE S. MATSUBARA
DEPUTY DIRECTOR

April 22, 1991

MEMORANDUM

TO: The Honorable Murray Towill, Director/DBED
The Honorable William Paty, Director/DLNR
Manabu Tagamori, Deputy Director/DLNR
Dean Nakano, Planner/DLNR
Maurice Kaya, Division Head, Energy/DBED
Dean Anderson, Program Mgr., Geothermal/DBED

FROM: Michelle Wong-Wilson *MW*

SUBJECT: Geothermal Asset Fund Rules Meeting #2
April 15, 1991

The following persons met to continue discussion of rules for the County's Geothermal Asset Fund:

Luana Jones, Jane Hedtke, Bob Pettrici,
Greg Pommerenk, Steve Phillips, Ron Phillips,
Butch Clark, Tad Nagasako, Rodney Nakano,
Fred Giannini (Corp. Counsel), Council Chairman
Russell Kokubun and myself, Gary Alexander of Puna
also sat in on a portion of the meeting

The group began discussions based on DRAFT 2 of the rules which was distributed by the Corporation Counsel April 12

The following issues were discussed and changes made in the order listed on Draft #2.

1. Purpose: Correct GRP No. 87-1 to GRP No. 87-2.
2. Panel Membership: Panel shall consist of seven (7) voting members and the Director of Planning for the County who is a non-voting member. Members shall be elected by popular vote of registered voters residing in the Puna District.

Candidates shall reside in the Puna District and have a residency of 1 year. Candidates must file nomination papers signed by ten

DEPARTMENT OF
BUSINESS &
ECONOMIC DEVELOPMENT

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other registered voters from Puna. Puna Community Council shall operate the election process with oversight by the League of Women Voters.

Members shall serve staggered terms, those receiving the highest votes shall serve the longest terms. The members shall elect a Chair and Vice-Chair from among the group. Parts 2 (c) and (d) are eliminated.

3. Eligibility of Claims: There was discussion that noise impacts be included in the list of adverse impacts. The group agreed to add the language but not be limited to the list of adverse impacts. The key phrase is "substantial claim". The impact must be "provable". Corporation Counsel will add more language to define a substantial claim.
4. Filing of Claims: Discussion was held over a Filing Fee. \$50.00 was agreed upon for purposes of discussion. The fee will be applied to administration costs, which are primarily newspaper advertising of hearing date. Also, seven copies must accompany the filing of the claim.
5. Public Hearing: 5 (b) the permittee will receive a copy of the Notice of Hearing and the Claim. 5 (c) delete the phrase "upon the closing of the hearing" and replace with "after taking testimony".

There was discussion about (5 c) (2) "the amount of compensation to be granted is equal to the damage caused by the adverse impact caused by the activity permitted by GRP 87-2". The major concern is the unknown amount available in the fund. For example, if the first award given is for permanent relocation, then the fund could be depleted. Some members of the group advocate that position. In fact, if the fund is depleted before the award is satisfied, the balance would be paid out of future funds. Others asked questions about leveraging the funds in order to provide more dollars to pay for impacts, i.e. committing revenues from future to pay for a loan. Also the question of property ownership came up. If the fund paid for permanent relocation, who would own the property and could the property be resold to recover monies. Or if the

Memorandum
Page 3
April 15, 1991

claimant sells his house at a lower value and has proven that loss of value was due to the geothermal activity, can he apply for recovery of that loss to the Asset Fund? Corporation Counsel will review the legality of these issues

Discussion was also held on priority of claims. The group requested that:

1. Claims be given priority on the order that the claim was filed, and;
2. Claimants be residents of the affected household prior to the issuance of the GRP. Any resident who knowingly moves into an affected area does not qualify for claim, when and if they suffer an impact.

Also brought up as the ability to use contested case hearing process for the asset fund. Corporation Counsel agreed that it was allowed.

Corporation Counsel agreed to provide Draft #3. The next meeting of this group is scheduled for April 30th, Tuesday at 9:00 am.



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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GOVERNOR
ROGER A. IZUMI
DIRECTOR
BARBARA KIM STANTON
DEPUTY DIRECTOR
LESLIE S. MATSUURA
DEPUTY DIRECTOR

FAX TRANSMITTAL

DATE: 4-12-91

TO: DEAN NAKANO - DLNR

FAX # 548-6052

FROM: DBED - Hilo

FAX # (808) 933-4602

SUBJECT: _____

NUMBER OF PAGES (INCLUDING THIS COVER PAGE) 5. IF ANY PORTION OF THIS TRANSMISSION IS MISSING OR IS RECEIVED POORLY, PLEASE CALL DBED/HI ISLAND OFFICE AT (808) 933-4600.

*Michelle Wong***GEOHERMAL ASSET FUND RULES**

1. **PURPOSE.** There shall be created a panel to be known as the Geothermal Claims Panel. The purpose of the Panel is to distribute the money in the Geothermal Asset Fund, which was created pursuant to Condition 51 of Geothermal Resource Permit (GRP) No. 87-1, issued to Puna Geothermal Venture on October 3, 1989. The Panel shall authorize payment of money from the fund to claimants whom the panel finds have been adversely impacted by the activities authorized by GRP 87-1.

2. **PANEL MEMBERSHIP.** (a) The Panel shall consist of five members, one of whom shall be the Planning Director of the County of Hawaii or his duly authorized representative, and two alternate members.

(b) The remaining four members of the Panel shall be residents of the Puna district and shall serve for two years from the date of appointment.

(c) The community organizations representing the residents living within fifteen miles of the activity authorized by GRP 87-1 shall submit to the County Council a list of not less than six and not more than thirty names of candidates for the Panel. The Council may hold hearings and take testimony concerning the qualifications and eligibility of the candidates to serve on the Panel.

(d) The Council shall, by a majority vote, appoint four of the candidates to the seats on the Panel. After voting on the four Panel seats, the Council shall, by majority vote, select two remaining candidates from the list to be alternate members.

(e) If any Panel member shall be unable to attend a hearing of the Panel, one of the alternates shall serve in that member's place. If any Panel member shall file a claim for compensation from the Geothermal Asset Fund, then one of the alternates shall serve in that member's place at the hearing at which the member's claim is considered.

3. ELIGIBILITY OF CLAIMS. Claims for compensation from the Geothermal Asset Fund may be filed by any person who is adversely affected by the activity of Puna Geothermal Venture authorized by GRP 87-1. Such adverse impact shall include physical injury, medical and health conditions, business or economic loss, or loss of residential property value.

4. FILING OF CLAIMS. (a) All claims for compensation for adverse impact pursuant to this rule shall be filed with the Hawaii County Planning Department, 25 Aupuni Street, Hilo, Hawaii 96720.

(b) Each claim shall include the following information:

- (1) Name of claimant(s).
- (2) Address of claimant(s).
- (3) Date of filing of claim.
- (4) Description of the nature of the claim, including the way in which claimant(s) has been adversely impacted by the activity and the compensation sought.

(c) Each claim shall be accompanied by evidence of the aforementioned adverse impact and request for compensation. Such evidence may include written reports and testimony, photographs, bills, invoices, and other documentary evidence.

5. PUBLIC HEARING. (a) Within 90 days of the filing date, the Panel shall hold a public hearing to determine whether or not compensation should be paid to the claimant, and if so, in what amount. Notice of said hearing shall be published in accordance with HRS Chapter 91.

(b) Notice of the hearing on the claim shall be mailed to Puna Geothermal Venture, or any successor in interest under GRP 87-1.

(c) Prior to the hearing on a claim, the Panel members shall have access to the claim and any evidence submitted along with each claim. Panel members are entitled to receive copies of claims and evidence.

(d) At the hearing, the claimant shall be permitted to testify under oath on his own behalf, and present further physical, testimonial, or documentary evidence. Permittee Puna Geothermal Venture, or its successor in interest, under GRP 87-1 shall have the opportunity to present evidence. The Panel may, in its own discretion, allow further testimony, and may call others to present testimony on the issue of the claim.

(e) Upon the closing of the hearing, the Panel shall vote whether or not the claim has merit and, if so, what amount of compensation shall be paid to the claimant. The Panel may vote to pay the claimant if it finds, by a preponderance of the evidence that:

(1) the adverse impact claimed would not have occurred but for the activity permitted by GRP 87-1; and

(2) the amount of compensation to be granted is equal to the damage caused by the adverse impact caused by the activity permitted by GRP 87-1.

5. APPEAL. Claimant may appeal the decision of the Panel to the Board of Appeals within 30 days of said decision.

6. OTHER RIGHTS. Nothing in this rule shall be construed to deprive or deny any person any other right or recourse under law.

Maurice A. Richard, Hawaii Regional
Development Manager

October 3, 1989

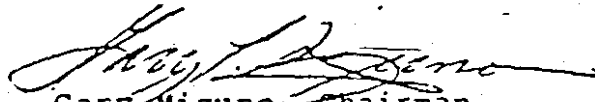
Page 21

47. The permittee shall obtain, and comply with the provisions of, Authorities to Construct and Permits to Operate from the State Department of Health for all applicable project operations approved under this Geothermal Resource Permit.
48. The permittee shall secure all necessary approvals and clearances including Plan Approval pursuant to Chapter 25 of the Hawaii County Code, within one (1) year from the effective date of the Geothermal Resource Permit.
49. Construction shall commence within one (1) year from the date of receipt of Final Plan Approval.
50. The permittee shall submit a written semiannual status report to the Planning Commission on the permittee's best efforts to address/comply with the "Other Agreements and Recommendations" as contained in Section 5 of the final report on "Mediation of Geothermal Resource Permit Application 87-1" dated August 21, 1989, regarding but not limited to the collateral agreements and commitments the permittee made during the mediation process, and which the permittee considers to be contractual obligations subject to the issuance of a satisfactory Geothermal Resource Permit. The status report shall be submitted by February 15 (covering the preceding period of July 1 through December 31) and August 15 (covering the preceding period of January 1 through June 30) of each year.
51. Prior to the issuance of the first building/construction permit under this Geothermal Resources Permit (GRP) by the County of Hawaii, the State of Hawaii and the permittee shall each contribute towards a Geothermal Asset Fund or other appropriate existing fund for the purposes of geothermal impact mitigation efforts within the District of Puna. The permittee's initial contribution to the fund shall be a sum of \$60,000, due within thirty (30) days after the effective date of this GRP permit, and annual sums of \$50,000 due on or before the anniversary date of this GRP permit over a period of eight (8) consecutive years thereafter for a total of \$460,000. Annual contributions thereafter shall be determined between the permittee and the State of Hawaii or \$50,000 annually, whichever is greater. The State's initial annual contribution to the Geothermal Asset Fund shall be the net revenues derived from the resources generated by the HGP-A well, or a similar amount from other State funding sources

Maurice A. Richard, Hawaii Regional
Development Manager
October 3, 1989
Page 22

less any allocations entitled to the Office of Hawaiian Affairs and operations and maintenance costs. In the event that future enabling legislation provides for a percentage of the State's geothermal royalties to be allocated to the County, upon concurrence with the County Council, said royalties may also be deposited to the fund. The administration and expenditure of assets from this Geothermal Asset Fund shall be in accordance with rules, regulations and procedures developed for that purpose by the County in accordance with Chapter 91, Hawaii Revised Statutes, and with participation of Puna residents or representatives thereof, which shall include, but not be limited to, provisions and criteria to enable the first priority of distribution for temporary or permanent relocation of those property owners who are found, in accordance with criteria established in the rules, to be adversely impacted by the activities authorized, provided that such relief is applied for within a period of one (1) year of the impact. A priority list of impact mitigation projects may be established by the County Council or agency designated by the Council in conjunction with Puna residents or designated representatives thereof, with the exception of upgrading existing subdivisions in the Puna District to current subdivision standards and specifications of the County of Hawaii. Should any other district(s) of the County of Hawaii be proved to be negatively impacted by activities authorized under this or any other subsequent GRP, that district shall receive a pro rata share of the fund assets as may be determined by the County Council or agency designated by the Council with expenditures to follow a prioritized schedule determined as outlined above. The rights granted to the permittee shall not be conditioned upon any contribution or further participation by the State in the fund nor with respect to the creation, management, and operation of the fund other than set forth above.

Sincerely,


Gary Mizuno, Chairman
Planning Commission

cc: Mr. Peter Adler
Mediation Parties (list)
DBED
DOA
DLNR/Honolulu
DOH
Mr. Ralph Matsuda



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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GOVERNOR

ROGER A. URBELING
DIRECTORBARBARA KIM STANTON
DEPUTY DIRECTORLESLIE S. MATSUHARA
DEPUTY DIRECTOR

FAX TRANSMITTAL

DATE: April 12, 1991

Murray Towill, Maurice Kaya, Dean Anderson
Dean Nakano

TO:

FAX #

FROM: Michelle Wong-Wilson

FAX # (808) 933-4602

SUBJECT: Geothermal Asset Fund Rules received from Rodney Nakano/CoH Plan. Dept.

DEAN NAKANO/DLNR: PLEASE PRESENT THIS TO BILL PATY, MANABU TAGAMORI, JANET SWIFT

Thank you.

NUMBER OF PAGES (INCLUDING THIS COVER PAGE) 5 . IF ANY PORTION OF THIS
TRANSMISSION IS MISSING OR IS RECEIVED POORLY, PLEASE CALL DBED/HI ISLAND OFFICE
AT (808) 933-4600.

Michelle Wong

GEOHERMAL ASSET FUND RULES

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(c) The community organizations representing the residents living within fifteen miles of the activity authorized by GRP 87-1 shall submit to the County Council a list of not less than six and not more than thirty names of candidates for the Panel. The Council may hold hearings and take testimony concerning the qualifications and eligibility of the candidates to serve on the Panel.

(d) The Council shall, by a majority vote, appoint four of the candidates to the seats on the Panel. After voting on the four Panel seats, the Council shall, by majority vote, select two remaining candidates from the list to be alternate members.

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(1) the adverse impact claimed would not have occurred but for the activity permitted by GRP 87-1; and

(2) the amount of compensation to be granted is equal to the damage caused by the adverse impact caused by the activity permitted by GRP 87-1.

5. APPEAL. Claimant may appeal the decision of the Panel to the Board of Appeals within 30 days of said decision.

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GOVERNOR

ROGER A. UELAND
DIRECTOR

BARBARA KIM STANTON
DEPUTY DIRECTOR

LESLIE S. MATSUURA
DEPUTY DIRECTOR

MT DN

APR 9 1991

1152A

FAX TRANSMITTAL

DATE: 4/5/91

TO: See Memo Distribution Murray Towill, Dir./DBED Dean Nakano, DLNR
William Paty, Dir./DLNR Maurice Kaya, Div. Head/DBED
Manabu Tagamori, Dep. Dir. /DLNR Dean Anderson, Prog. Mgr/DBED

FROM: Michelle Wong-Wilson

FAX # (808) 933-4602

SUBJECT: Attached is another copy of the memo which was mailed to you earlier

this week. Some of you may have received two copies of the first page

in error. Please note the request for a meeting on Thursday, April 11

at 10:00am in the DBED Director's conference room.

If you have any questions or comments, please let me know.

NUMBER OF PAGES (INCLUDING THIS COVER PAGE) 3. IF ANY PORTION OF THIS
TRANSMISSION IS MISSING OR IS RECEIVED POORLY, PLEASE CALL DBED/HI ISLAND OFFICE
AT (808) 933-4600.



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JOHN WAIHE
GOVERNOR

ROGER A. ULUMING
DIRECTOR

BARBARA KIM STANTON
DEPUTY DIRECTOR

LESLIE S. MATSUMURA
DEPUTY DIRECTOR

April 1, 1991

MEMORANDUM

TO: The Honorable Murray Towill, Director/DBED
The Honorable William Paty, Director/DLNR
Manabu Tagamori, Deputy Director/DLNR
Dean Nakano, Planner/DLNR
Maurice Kaya, Division Head, Energy/DBED
Dean Anderson, Program Mgr., Geothermal/DBED

FROM: Michelle Wong-Wilson *MW*

SUBJECT: Geothermal Asset Fund Meeting
April 1, 1991

A meeting was held today on the proposed rules for the Geothermal Asset Fund as the request of Planning Director, Norman Hayashi. In attendance were:

Greg Pommerenk, Luana Jones, Robert Pettrici,
Butch Clark (PGV), Council Chairman Russell
Kokubun, Deputy Director Tad Nagasako, Rodney Nakano,
Corporation Counsel Michael Matsukawa, Planning
Director Norman Hayashi and myself.

There was much general discussion about the impacts of geothermal development on close neighbors. The group was generally dissatisfied with the first draft of rules (attached). Greg introduced minutes of several meetings held in 1989 and 1990 by the "Ad Hoc Committee" and requested that the group review the minutes and adopt them as a basis for a re-draft of the rules. The group did not agree to adopt the minutes, but did agree to use the "Ad Hoc Committees" recommendations as a starting place. The group also agreed that:

- 1) The rules developed should be for the Planning Department not Planning Commission;
- 2) An "advisory" group which included community members should be formed by rule to review applications;

Memorandum

Page 2

April 1, 1991

- 3) Corporation Counsel Matsukawa agreed to re-draft the rules based on the recommendations of the "Ad Hoc" Committee Meeting; and
- 4) The target date for the completion of the drafting of the rules is April 30. This would allow approximately six weeks for the public notification and hearing process. Rules could be adopted by June 15. I expect to receive Draft #2 of the rules on April 8. The next meeting of this group will be held on Monday, April 15.

There will be a meeting to discuss Draft 2 of the Geothermal Asset Fund Rule on:

Date: Thursday, April 11, 1991
Time: 10 A.M.
Place: DBED 9th Floor Conference Room
Penthouse, Kamamalu Building

Your attendance will be greatly appreciated. Please RSVP by calling DBED Hawaii Island Office at 933-4600.

MWW:jt

Enclosure

GEOTHERMAL RULE - ASSET FUND

FILED

91 APR 4 10 16

1. PURPOSE - The purpose of this rule is to establish a system to distribute the money in the Geothermal Asset Fund, which was created pursuant to Condition 51 of Geothermal Resource Permit (GRP) No. 87-1, issued to Puna Geothermal Venture on October 3, 1989. The money shall be paid to claimants found by the Planning Commission to be adversely impacted by the activities authorized by the permit.

2. ELIGIBILITY OF CLAIMS - Claims for compensation from the Geothermal Asset Fund may be filed by any person who is adversely affected by the activity of Puna Geothermal Venture authorized by GRP No. 87-1. Such adverse impact shall include physical injury, medical and health conditions, business or economic loss, or loss of residential property value.

3. Filing of Claims - a) All claims for compensation for adverse impact pursuant to this rule shall be filed with the Hawaii County Planning Commission, 25 Aupuni Street, Hilo, Hawaii 96720.

b) Each claim shall include the following information:

- 1) Name of claimant(s).
- 2) Address of claimant(s).
- 3) Date of filing of claim.
- 4) Description of the nature of the claim, including the way in which claimant(s) has been adversely impacted by the activity and the compensation sought.

c) Each claim shall be accompanied by evidence of the aforementioned adverse impact and request for compensation. Such evidence may include written reports and testimony, photographs, bills, invoices, and other documentary evidence.

4) Public Hearing - a) Within 90 days from the filing date, the claim shall be placed on the agenda of the Planning Commission for a public hearing to determine whether or not compensation should be paid to the claimant, and if so, in what amount. Notice of said hearing shall be published in accordance with Planning Commission Rules.

b) Notice of the hearing on the claim shall be mailed to Puna Geothermal Venture, or any successor in interest under GRP 87-1.

c) Prior to the hearing on a claim, the Planning Commissioners shall have access to the claim and any evidence submitted along with each claim. Planning Commissioners are entitled to receive copies of claims and evidence.

d) At the time of the hearing, the claimant shall be permitted to testify under oath on his own behalf, and present further physical or documentary evidence. The Planning Commission may, in its own discretion, allow further testimony, and may call others to present testimony on the issue of the claim.

e) Upon the closing of the hearing, the Planning Commission shall vote whether or not the claim has merit and, if so, what amount of compensation shall be paid to the claimant(s). The Planning Commission may vote to pay the claimant if it finds, by a preponderance of the evidence that:

- 1) the adverse impact claimed would not have occurred but for the activity permitted by GRP 87-1;
and

2) the amount of compensation to be granted is equal to the damage caused by the adverse impact caused by the activity permitted by GRP 87-1;

5. Appeal - Claimant may appeal the decision of the Planning Commission to the Board of Appeals within 30 days of said decision.

6. Other Rights - Nothing in this rule shall be construed to deprive or deny any person any other right or recourse under law.

AD HOC COMMITTEE MEETING NO. 2
GEOTHERMAL ASSET FUND
Thursday, October 19, 1989
Council Chairman Russell Kokubun's Office

RECEIVED
01 APR 4 4 08:10

PRESENT: Lou Ann Jones, Ron Philips, Greg Pommerek, Russell Kokubun, Duane Kanuha

ABSENT: Steve Philips
Libert Landgraf

ITEMS DISTRIBUTED

Senate Bill No. 238 (1987) relating to Government Mineral Rights

Page 27 of County Charter (Section 13-4 Boards and Commissions)

Council Rules of Procedure, Rule 11 (Voting)

Discussion on Administrative Matters

Russell outlined three major sources of funding which could be used to support the efforts of the ad hoc committee: 1) unexpended funds from the mediation fund account, 2) funds from Ormat via other agreements, 3) State resources per Libert Langraf. Purposes would be for staffing (secretarial services, etc.) and possible per diem and travel.

As of 10/5/89, Mediation Fund account in Planning Department has \$8,889.30.

Letters of confirmation to join ad hoc committee were sent out by the Planning Director. Discussion on alternates followed but more clarification and confirmation were necessary.

Who Manages?

Alternate management schemes were discussed with focus on funds coming to the County and appropriated by the County Council. Preferred scenario was the establishment of a separate board/commission with own rules, regulations and criteria attached to the County administration to provide distribution recommendations to the Council. For purposes of further discussion, the administrative body for the proposed board/commission was the Planning Department, although the receipt and distribution of funds could also be set up in the Finance Department.

Membership criteria for the proposed board/commission was discussed and preliminarily defined as Puna resident (at least one year) with recognized community involvement through

community organizations, etc. Language from Section 5-6.3 of the Charter would be used as a model to provide guidance. Much discussion on length of time to establish residency - range from 3 years to 1 year - and what level of community involvement desired.

Committee decided to limit at this time to just the two criteria.

Who/How Appoints?

The committee determined that the initial screening should be by the community prior to appointment through the use of the Puna Community Council election process. PCC would only perform the elections in accordance with rules, criteria, guidelines established by the County. In further discussion on this issue, it was decided that if the community went through the trouble of self selection, the outcome should constitute the commission make-up rather than having final approval subject to the Mayor or the Council. In this way, politics could be removed.

A 9-member setup with terms, etc. similar to the Charter provisions was discussed. Representation from OHA or educators was a concern but the response was it would be difficult to mandate participation from select groups. Special representation from OHA, etc. could also be accommodated by ex-officio invitation provided in the rules.

There was major discussion over participation on the commission by members of the community who could potentially be beneficiaries of the fund. Some committee members felt that without the direct participation, the concerns would not be as meaningful, while other committee members felt that since monies were involved, there was a direct conflict of interest and therefore those commissions members could not participate. Russell passed out Council rules regarding voting. A 9-member setup was then reemphasized since if direct beneficiaries has to abstain from voting, at least a quorum would be available to conduct business.

It was anticipated that once the initial relocation or displacement effort was completed then the commission would be focusing more on the use of the fund to provide community benefits. There was discussion on how those benefits should not take precedence over funding for the district which would normally be available, nor should the fund duplicate normal CIP related project. It could, however, be used to supplement a shortfall in a needed community CIP project.

Next Meeting

Next meeting set for 10/26/89 at 9 a.m. same place (Note: meeting date re-scheduled for 11/2/89 due to conflict with

Duane's and Russell's schedule). Topics would be to follow up on administrative matters; report from Libert; and purposes/uses of the fund.

Submitted by D. Kanuha
10/25/89

AD HOC COMMITTEE MEETING NO. 3
GEOTHERMAL ASSET FUND
Thursday, November 2, 1989
Council Chairman Russell S. Kokubun's Office

General discussion on report from meeting No. 2.

Purposes/Uses of Fund

I. Relocation

Generally agreed that relocation is a primary purpose for the fund. Relocation was discussed in two aspects - permanent and temporary.

Discussion on permanent relocation involved:

1. Eligibility of landowners/residents within a subzone.
2. landowners/residents adjacent to the subzone.
3. affected landowners/residents.

Other questions raised in the discussion included: 1. Who would own the land after purchase using asset funds? 2. Can a landowner retain agricultural holdings and only have his/her residence considered for relocation?

Discussion of temporary relocation included:

1. Temporary relocation costs during planned ventings are covered by Condition 39 of the Permit Conditions; funds are not dependent on asset fund monies.
2. Relocation costs due to emergency situations are covered by Condition 29 of the permit conditions; funds are not dependent on asset fund monies.
3. Temporary relocation costs due to drilling are included in item No. 7 of "Other Agreements" found in the Mediator's Report, but is limited to \$55,000; there is a need for additional asset fund monies for temporary relocation due to drilling.
4. Asset fund monies may be considered for relocation of residents beyond a 3,500 foot radius during venting and/or drilling on a case by case basis.

II. Compensation

Issues to be considered for compensation include:

1. Lost work income - limited coverage by Condition 39 of the Permit Conditions; coverage may need to be expanded.
2. Crop/Agricultural damage.
3. Medical costs.
4. Decrease in assessed valuation for real property due to impacts.

5. For those residents suffering noise impacts not addressed by Condition 24 of the Permit Conditions.

III. Community Benefits

There is general agreement that certain benefits should accrue to the community. There was concern expressed that the asset fund not displace nor duplicate normal CIP related projects. Because there may be an opinion that interprets the asset fund as an impact fee, there should be careful consideration that a rational nexus be established between the proposed use of the monies and the impacts of the development of the resource. With this in mind, specific community benefits raised during the discussion include:

1. Enhancing County water supply.
2. Housing (?).
3. Private utility development.
4. Provide scholarships for youth in alternate energy, agriculture, etc.
5. Development of geothermal by-product utilization enterprises.

Next Meeting

Next meeting set for November 9, 1989 at 1:30 p.m. in the Council Chairman's office.

AD HOC COMMITTEE MEETING NO. 3
GEOTHERMAL ASSET FUND
Thursday, November 2, 1989
Council Chairman Russell Kokubun's Office

PRESENT: Lou Ann Jones, Ron Philips, Greg Pommerek, Russell
Kokubun, Duane Kanuha, Steve Philips

ABSENT: Libert Landgraf

OLD BUSINESS

Jane Hedtke was designated as the alternate for Louann and Gregg; Robert Patricci for Steve Philips; and Clive Cheetham for Ron Philips.

NEW BUSINESS

Gregg and Luanne asked about the status/objective of the Mayor's Geothermal Advisory Committee and whether or not their role would impact upon the development of the asset fund. Advised that the County's understanding of the committee is advisory on the whole spectrum of geothermal.

Discussion on ORMAT's additional funding commitments to the development of the asset fund. Steve inquired if the HGP-A shutdown would affect asset funding.

Gregg stated that he felt the asset fund and continuing commitments by ORMAT, the State and other geothermal developers could provide the vehicle for securing a lump sum loan for x million dollars backed by the asset fund itself and the State for repayment of principal, etc. In this way, sufficient funds could be established up front prior to impacts and could address those impacts before actual accumulation of sufficient funding over time. The group felt that this concept was worth pursuing.

Louanna questioned whether the responsibilities of the developers ceased upon payment into the asset fund and/or royalties. Group response was generally that many other conditions also needed to be met as well.

PURPOSES/USES

Gregg stated that the general purpose of the asset fund should be to offer assistance to landowners and residents in the surround geothermal subzone area. Also that an application form or format be developed to implement purpose. Russell suggested that the purpose be modeled off of the GRP criteria found in the statute and Rule 12 since it already provided a common basis.

Discussion continued - see Russell Kokubuns notes

Next Meeting

Next meeting set for 11/989 at 1:30 p.m.

Submitted by D. Kanuha
11/9/89

AD HOC COMMITTEE MEETING NO. 4
GEOTHERMAL ASSET FUND
Thursday, November 9, 1989
Council Chairman Russell Kokubun's Office

PRESENT: Lou Ann Jones, Ron Phillips, Steve Phillips,
Greg Pommerek, Duane Kanuha, Russell Kokubun,
Libert Landgraf

OLD BUSINESS

1. Lou Ann asked if responses from Corporation Counsel to Russell's request for an opinion regarding the legality of Condition 51 were ready for distribution? Russell responded that he has asked for clarification of the initial opinion rendered and is still awaiting response. He will share both opinions when they become available.

2. Per diem and mileage payments to participants as means to provide relief for extensive commitments to Ad Hoc Committee meetings. There was general discussion regarding possible funding sources, appropriateness of compensation over and beyond mileage and per diem, and how such expenses could be administered. Discussion also involved whether or not any compensation should be considered and that the asset fund development could have proceeded with major participation only by Duane and Russell.

NEW BUSINESS

Libert provided information regarding the State's contribution toward the asset fund. The initial contribution from the State will be \$250,000 for the establishment of the fund. This amount coupled with the \$60,000 initial contribution from ORMAT will total \$310,000 as "seed money". Future contributions from the State will be derived from the sale of steam from the HGP-A well (presumably to ORMAT). This amount will approximate be \$25,000 a month which will yield \$300,000 a year. ORMAT's future commitment is \$50,000 a year, which will then produce a total of \$350,000 a year as continuing deposits to the asset fund. Libert additionally explained that if the sale of steam from the HGP-A well is not immediately forthcoming, then the State is committed to provide monies from other sources that would insure the viability of the asset fund.

Discussion also included how royalties from geothermal steam need to be considered as an integral component of the asset fund. Quite obviously, the proposed financial resources as explained above appear to be inadequate in terms of providing the entire means to address all proposed uses. Royalties have always been looked upon as the means to provide a substantial

AD HOC COMMITTEE MEETING NO. 4
November 9, 1989
Page 2.

and sound financial basis for the asset fund; however, it is clear that this issue of royalties directed to the County (and further, for use in the asset fund) requires State legislative approval. Libert indicated that the Administration would not oppose legislation of this sort but also would not necessarily initiate or overtly support such a proposal. Nonetheless, there was agreement that royalty payments need to be pursued, but should be treated as a separate issue from the actual establishment of the asset fund.

Discussion also involved the \$10,000 contribution from ORMAT to assist the community to establish the geothermal asset fund as found in Condition #2 of Other Agreements and Recommendations from the Mediator's Report. Duane agreed to write a letter to PGV to gauge their commitment to honor this agreement.

NEXT MEETING

Next meeting set for November 16, 1989 at 9:00 a.m. in the Council Chairman's office.

AD HOC COMMITTEE MEETING NO. 5
GEOTHERMAL ASSET FUND
Thursday, November 16, 1989
Council Chairman Russell Kokubun's Office

PRESENT: Lou Ann Jones, Ron Phillips, Steve Phillips,
Greg Pommerek, Jane (Janie) Hedtke, Russell Kokubun,

ABSENT: Duane Kanuha, Libert Landgraf

OLD BUSINESS

1. An inquiry was raised whether Duane had transmitted a letter to PGV regarding their commitment to honor the agreement that involved a \$10,000 contribution from ORMAT to assist the community in establishing the Geothermal Asset Fund (GAF). Russell agreed to discuss this issue with Duane.

2. Legislative initiatives involving portions of royalties from geothermal development to the counties were discussed. Ron Phillips will ask Senator Richard Matsuura if previous legislation will be introduced and Ron also agrees to discuss this issue with Representative Mark Andrews as well.

NEW BUSINESS

It appears that much of the structure for the GAF has been developed through the hard work of the participants who have demonstrated a strong commitment in terms of time and energy to bring it this far. Nevertheless, it is difficult for the committee members to continue to meet on a weekly basis. Furthermore, because ad hoc committee members may qualify to receive direct compensation from the asset fund, a greater degree of objectivity is desired. It is appropriate at this time for Duane and Russell to develop the specifics of the conceptual agreements reached thus far and return to the committee format on a less frequent, and thus, less demanding basis. The intent was for greater community participation in developing parameters for the asset fund as envisioned in Condition 51.

During the interim Duane and Russell will draft appropriate administrative rules and regulations that will provide the management for the GAF. This will include the development of the appropriate accounting system that will be consistent with the current County budgeting process.

Further discussion included other data that needed to be collected in order to establish a quantifiable "bottomline" that will help to determine the parameters for the asset fund. There was agreement again that relocation is a primary purpose for the fund. Thus, there is a need to now specifically

determine eligibility for relocation -both permanent and temporary- in order to quantify the amount needed for relocation. Conclusions drawn for eligibility for permanent relocation were:

1. Landowners within Kapoho Subzone.
2. Landowners adjacent to Kapoho Subzone boundaries.
3. Landowners located within 3,500' radius of the Kapoho Subzone boundaries.
4. Landowners located within one mile radius of the Kapoho Subzone boundaries.
5. Landowners located within a two mile radius of the Kapoho Subzone boundaries (this specific data maybe used to determine relocation costs on a case-by-case basis).

Janie and Steve agreed to pursue this assignment which would include a map of the area involved, list of landowners for each parcel, TMKS for parcels involved, parcel size and assessed valuation of parcels.

For temporary relocation two eligibility scenarios were considered during venting. Those residents within a 3,500' radius from the boundary of the project will receive compensation for relocation as included in Condition #39 of the GRP 87-1. However, it was concluded that residences beyond 3,500' to two miles from the project boundary should also be considered for eligibility for temporary relocation compensation. Utilizing TMKS and real estate industry information, residences located in this zone can be determined, and projected temporary relocation costs can be quantified by applying similar monetary values as found in Condition #39. There was agreement that \$200 per residence per day can be used to estimate the cost for temporary relocation.

For temporary relocation during the drilling phases there is a similar need to determine those residences within a two mile radius from the project boundary. The same values as applied for temporary relocation during venting will be applied here - \$200 per residence per day. This will provide a quantifiable estimate. Janie and Steve agreed to tackle this assignment as well.

Discussion included how landowners would be notified of their eligibility. It was agreed that this should be covered in the rules and regulations governing the asset fund. Those uses of the fund beyond relocation, namely other compensation and community benefits as discussed at meeting #3 are more difficult to quantify and will be the subject of discussion at the next meeting.

Additionally, items that need to be discussed at the next meeting include time frame for the activation of all the

AD HOC COMMITTEE MEETING NO. 5
GEOTHERMAL ASSET FUND
Thursday, November 16, 1989
Page 3.

components of the asset fund and the draft of rules and regulations.

NEXT MEETING

The next meeting has been tentatively set for December 4 or 5, subject to agreement by all participants.

ASSET FUND AD HOC COMMITTEE MEETING

MINUTES MEETING #6

DATE: July 18, 1990

TIME: 3:00 pm, Pahoa Neighborhood Center

MEMBERS PRESENT: Ron Phillips, Greg Pommerenk, Steve Philips
Alternates Robert Petricci and Jane Hedtke

INVITED: Maurice Richard, Duane Kanuha, Russell Kokubun
Not in attendance

CALL TO ORDER
3:08 pm

OLD BUSINESS

Establish criteria for temporary/permanent relocation when the drilling begins it will be in place.

Those in priority would be based on proximity (distance) from the nuisance.

Elections for the members of the Commission to include 9 residents elected by the Puna District. The Puna Council could hold nominations for the positions.

Funding Sources- at present a commitment from PGV of \$50,000 a year. The state contribution is a \$250,000 loan to the County by the State. Still waiting for clarification from Corporation Council as to the legality of the County to administer the fund.

Funding Commitment-County Council Chair meetings with Gov. Waihee's representative Liebert Langraf, the contribution was agreed to be \$250,000 per year by the State (not a loan), and \$25,000 per year from HGP-A revenues, with no discussion of OHA royalties and maintenance costs being deducted as presented in the Condition (51). Sus Ono committed to the above figures at the Sept. 19 public hearing in which the decision to approve the permit were based on his testimony concerning the State's contribution.

Asset fund created solely for mitigation of the PGV project and the immediate area, not as stated in Condition 51 for other districts. Site specific fund.

NEW BUSINESS

Compile a formal statement of what Condition 51 should include in amount of money and administration of the Asset Fund.

Assessment included of property values 3500 feet from the power plant radius and get County Assessment and Market Value worth of all properties within that radius.

~~Community Organization to be appointed by the County Council to set up the Asset Fund, and another panel could be selected to apportion the money according to rules.~~

Request the Planning Commission revisit Condition 51 failure to be met by the lack of funding committed.

MEETING ADJOURNED: 4:25 pm

NEXT MEETING DATE: Wed. July 25, 3:00 pm, Pahoa Neighborhood Center.

JOHN WAIHEE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 621
HONOLULU, HAWAII 96809

SEP 21 1990

WILLIAM W. PATY, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES

KEITH W. AHUE
MANABU TAGOMORI
RUSSELL N. FUKUMOTO

AQUACULTURE DEVELOPMENT
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CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

REF:WRM-MH

Mr. Duane Kanuha
Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Dear Mr. Kanuha:

Enclosed is a check for \$250,000 to fulfill the State's obligation relative to Condition 51 of the Geothermal Resource Permit (GRP 87-1) issued to Puna Geothermal Venture.

My understanding is that with the \$250,000 authorized by the Legislative being deposited in Hawaii County's asset fund account condition 51 has been met.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Paty", is written over the word "Sincerely,".

WILLIAM W. PATY

Encl.

Wami

done

B

LARRY S. TANIMOTO

1781

Mayor

Duane Kanuha

Director

William L. Moore

Deputy Director



Planning Department

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

September 27, 1990

Mr. William W. Paty, Director
Dept. of Land & Natural Resources
P. O. Box 621
Honolulu, HI 96809

Dear Mr. Paty:

This is to acknowledge receipt of the check for \$250,000 towards a Geothermal Asset Fund for the purpose of geothermal impact mitigation efforts within the Puna District.

This payment fulfills the State's obligation for its initial annual contribution towards the Geothermal Asset Fund in accordance with Condition No. 51 of Geothermal Resource Permit No. 2.

For your information, Condition 51 states in part that:

The State's initial annual contribution to the Geothermal Asset Fund shall be the net revenues derived from the resources generated by the HGP-A Well, and a similar amount from other State funding sources less any allocation entitled to the Office of Hawaiian Affairs and operations and maintenance costs. (emphasis added)

Please feel free to call me if you have any questions on the above.

Sincerely,

DUANE KANUHA
Planning Director

WLM:aeb

cc: Planning Commission



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 621
HONOLULU, HAWAII 96809

OCT 19 1990

WILLIAM W. PATY, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES

KEITH W. AHUE
MANABU TAGOMORI
RUSSELL N. FUKUMOTO

AQUACULTURE DEVELOPMENT
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RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

REF:WRM-MH

Mr. Duane Kanuha, Director
Planning Department
County of Hawaii
25 Aupuni Street, Room 109
Hilo, Hawaii 96720

Dear Mr. Kanuha:

Thank you for your letter of September 27, 1990 acknowledging the receipt of our check for \$250,000, submitted in compliance with Condition No. 51 of the Geothermal Resource Permit issued to Puna Geothermal Venture.

In your letter, reference was made to Condition No. 51, which we quote as follows:

"The State's initial annual contribution to the Geothermal Asset Fund shall be the net revenues derived from the resources generated by the HGP-A Well, and a similar amount from other State funding sources less any allocation entitled to the Office of Hawaiian Affairs and operations and maintenance costs." (emphasis added)

However, if you will review page 20, item 51 of your GRP-87-1, you will find that the use of the word and is incorrect and section referenced in your letter should more properly have read as follows:

"....net revenues derived from the resources generated by the HGP-A well, or a similar amount from other State funding sources...." (emphasis added)

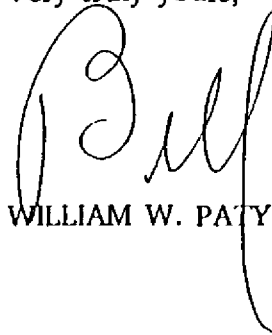
Mr. Duane Kanuha

Page 2

While the use of the word "and" may have been a typographical error, it should be made very clear that the State's contribution shall be based on either net revenues from HGP-A or other appropriate State funding sources less any allocations, and not the sum total of both, as inferred in your letter.

Should you have any questions concerning the above, please do not hesitate to call me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bill", with a long vertical line extending downwards from the end of the signature.

WILLIAM W. PATY

LARRY S. TANIMOTO

Mayor

Duane Kanuha

Director

William L. Moore

Deputy Director



RECEIVED
Planning Department

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

90 NOV 8 P 1: 41

DIV. OF WATER &
LAND DEVELOPMENT

NOV 1 1990
November 1, 1990

Mr. William W. Paty, Chairperson
Board of Land & Natural Resources
P. O. Box 621
Honolulu, HI 96809

Dear Mr. Paty:

Thanks for your letter of clarification dated October 19, 1990.

We stand corrected in our acknowledgment of September 27, 1990;
the proper statement should have been:

"... net revenues derived from the resources generated by by
HGP-A well, or a similar amount from other State funding sources
..." (emphasis added)

Our apologies for this typo. We are clearly aware that the
State's contribution was never intended to be the source of HGP-A
revenues and other State funding sources.

Sincerely,

DUANE KANUHA
Planning Director

DK:aeb

cc: Planning Commission